REMARKS

This paper responds to the Office Action mailed on January 5, 2009. Reconsideration of the claims is respectfully requested in light of the following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 7-9, 21-24, 26-33, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kasriel (U.S. 6,721,780), in view of Desai (U.S. 6,871,218), further in view of Smith (U.S. 6,742,033), and further in view of Logue (U.S. 5,935,207). The Office Action fails to show how the combination of the four references teaches or suggests each limitation of the claims, however, and thus fails to establish obviousness. Applicant respectfully submits that these rejections are improper and should be withdrawn.

The Office Action's rejection under § 103 is improper because it fails to show how the combination of four references teaches or otherwise suggests each and every limitation of independent claims 1, 21, 29, and 32. For example, the combination of the four cited references fails to teach or suggest a mobile device transmitting "a successful prediction notification to the state prediction module indicating that the user has made the stored data request during the time period" as recited in claim 1. The Office Action admits that the combination of the first three cited references, Kasriel, Desai, and Smith, do not suggest this limitation, but then cites to Logue as allegedly teaching a successful prediction notification sent during the time period.

The Logue reference is directed to a method for providing the number of hits received from a document cache. (Logue, col. 2, ll. 19-32). More particularly, the Logue reference relates to retrieving web pages for a WebTV application. In that regard, Logue teaches a hit accumulator to provide tracking information for documents requested from a cache. (Logue, col. 5, ll. 17-24). If a document requested by a client is contained in the document cache, the hit

accumulator adds data to the tracking record. (Logue, col. 5, ll. 17-55). If a document is not found in the cache, then the document may be added for future retrieval. (Logue, col. 5, ll. 53-55). Logue, however, fails to teach sending a "successful prediction notification to the state prediction module indicating that the user has made the stored data request during the time period" as recited in claim 1.

Logue simply totals the number of requests for documents and places a document into a cache if, when it was requested, it was not contained in the cache. Nowhere in the Logue reference is it disclosed, or otherwise suggested, that the client device sends a successful prediction notification, let alone during a specified time period. In the present application, the successful prediction notification is used to update the state prediction module based on the data requests made by the mobile device. The state prediction module utilizes the successful prediction notification to determine whether, and at what time, to push data to the mobile device. The hit accumulator in Logue performs nothing similar to receiving a successful prediction notification and utilizing that notification to push data to the device during a specified time period. Furthermore, the hit accumulator in Logue tracks document requests from the client regardless of when they are requested. Therefore, contrary to the Office Action, Logue does not teach the claimed limitation as it fails to both: i) receive a successful prediction notification from the requesting device, and ii) indicate that a request was made during a specified time period. Therefore, the Office Action has failed to show how the combination of the four references teaches, or suggest, each and every limitation of claim 1, and the obviousness rejection must be withdrawn.

Even if the Office Action's combination of four references taught or suggested each and every claim limitation, the rejection would still be improper because it relies upon conclusory

logic and hindsight reconstruction. An obviousness analysis should be made explicit and cannot rest on mere conclusory statements. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007). Here, the Office Action makes no attempt to show how the hit accumulator renders claim 1 obvious. More specifically, no analysis is provided as to how the hit accumulator and document cache of Logue render obvious the limitation of sending "a successful prediction notification to the state prediction module indicating that the user has made the stored data request during the time period" as recited in claim 1. Instead, the Office Action merely lists the teaching recited in Logue and proceeds to conclude that it would be obvious to use the teachings of Logue in conjunction with "Modified Kasriel,"[1] which already consists of three other references. The Office Action, however, provides no reasoning as to why the reason of ordinary skill in the art would look to Logue and combine it with three other references. Furthermore, the Office Action fails to identify why the combination of Modified Kasriel and the hit accumulator from Logue would render claim 1 obvious. In fact, the Office Action never even makes this conclusion. After stating that it would be obvious to combine Logue with Modified Kasriel, the Office Action ends its analysis of claim 1. Thus, there is no analysis as to why the combination of Modified Kasriel and Logue would render claim 1 obvious. Therefore, the rejection is based upon unsupportable conclusions in violation of The Supreme Court's decision in KSR.

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[1] The Applicant understands "Modified Kasriel" to mean the combination of the Kasriel, Desai, and Smith references.

For at least the above reasons, the applicant respectfully submits that the pending claims are patentable over the cited references and are in condition for allowance.

Respectfully submitted,

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